

REMARKS

Reconsideration of the present application is respectfully requested on the basis of the following particulars.

1. In the Claims

In the "Amendment of the Claims," the claims are amended to more clearly recite the subject matter for which protection is sought, to overcome the rejection under 35 U.S.C. § 112, second paragraph, and to provide new claims to obtain protection for subject matter not previously claimed.

In the amendment, claims 3, 4, 9 and 10 are cancelled without prejudice or disclaimer. The subject matter of claims 3 and 4 is incorporated into claim 1.

It was indicated in the office action that the subject matter of claim 4 may be allowable if properly recited. It is submitted that in the current amendment of claim 1, the subject matter of claim 3 is properly recited. Furthermore, as will be discussed below, the cited prior art references fail to disclose or suggest a vertical support having hook elements each with a downward directed pen.

Claims 5, 6, 7 and 8 are amended to depend from claim 1 in view of the cancellation of claims 3 and 4.

New claims 12-17 are added to recite a scaffold ladder system including at least one vertical scaffold element. New claim 12 recites a feature not previously recited in the claims and finds clear support in FIGS. 1-3 and the corresponding sections of the specification describing FIGS. 1-3. New claim 13 recites a scaffold ladder system and finds support in FIGS. 1-3 and the corresponding sections of the specification describing FIGS. 1-3. New claims 14-17 generally correspond to the subject matter of original claims 8-11.

Numerous changes are made to the claims to improve the clarity of the subject matter for which protection is sought. These amendments were not made to avoid prior art, as it is believed that the original claims are fully patentable over the cited prior art. Rather, in reviewing the claim language it was perceived that some of the language could be improved to more clearly define the inventive subject matter.

Examples of these clarity amendments include reciting “a plurality” of hook elements, removing reference to the term “protruding parts,” and referring throughout the claims to the “vertical” support and “downward directed” pen. It will be pointed out that the specification considers the protruding parts and hook elements as equivalent structures (page 5, lines 25-27). By simply reciting the hook elements, the claims are now consistent and simplified yet still retain coverage for both hook elements and protruding parts alike.

Another example of is the recitation that the hook elements extend generally perpendicular to the vertical axis of the vertical support. Support for this amendment is clearly found in FIGS. 1-6, and was implicit in view of claims 1, 3 and 4 as originally filed.

The claims are also amended to comply with 35 U.S.C. § 112, second paragraph. Changes are made to the claims so as to provide antecedent basis for the “far ends” recited in claim 2. Moreover, claim 1 specifies that each of the hook elements has a downward directed pen, and claim 6 is amended to refer to such downward directed pen.

Other changes to the claims to correct minor antecedent issues are also presented in the amended claims. These changes should be readily self-evident, and include referring to “first” and “second” hook elements, and “first” and “second” ends of the vertical support.

As a result of the amendments made to the claims, it is submitted that the pending claims comply with 35 U.S.C. § 112, second paragraph. Entry of the amendments of the claims is respectfully requested.

2. Rejection of claims 1-3, 6-9 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,109,954 (Skyba)

Having carefully considered this rejection, it is respectfully submitted that the Skyba patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Skyba patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1, in particular hook elements each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claims 2, 6-9 and 11, which depend either directly or indirectly from claim 1, are at least patentable based on their dependency from claim 1 and their individually recited features.

Turning to the Skyba patent, the office action makes reference to the carriage bracket 78 as a downward pen element. It is submitted that the carriage bracket of Skyba is not a downward directed pen element. Instead, it is clear that the carriage bracket is pivotally attached to the frame 18 of the apparatus of Skyba (col. 7, line 65 through col. 8, line 2). While the carriage bracket is capable of pivoting downward, it is not arranged to extend downward in the manner of the pen of claim 1.

In another distinction, claim 1 of the pending application specifies that each of the hook elements requires a downward directed pen. On the contrary, the Skyba patent shows standoff brackets 48a and 48b, wherein only standoff bracket 48a has the carriage bracket.

The standoff brackets of the Skyba patent are described as holding the apparatus a fixed distance away from a structure such as a tree (col. 6, lines 8-17). They are not, however, arranged for cooperating with erected scaffold elements.

Thus, when properly interpreted, the disclosure of the Skyba patent requires brackets that space away the apparatus from a structure. The Skyba patent does not discuss or show hook elements as being arranged to cooperate with erected scaffold elements, but instead describe general purpose spacer elements. Claim 1 of the pending application, however, describes that the hook elements are arranged to cooperate with erected scaffold elements and requires each hook element to have a downward directed pen.

In view of these remarks, it is clear that the Skyba patent does not sufficiently disclose an apparatus that anticipates the inventive scaffold ladder of the pending application. Withdrawal of this rejection is therefore requested.

3. Rejection of claims 1-3, 6-9 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 1,305,107 (Hogan)

This rejection is respectfully traversed on the basis that the Hogan patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Hogan patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1 such as the recited hook elements each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claims 2, 6-9 and 11, which depend either directly or indirectly from claim 1, are at least patentable based on their dependency from claim 1 and their individually recited features.

In observing the Hogan patent, it is clear that this patent fails to disclose or suggest a plurality of rungs and hook elements that extend generally perpendicular

relative to a vertical axis of the vertical support. Instead, the Hogan patent describes a hook 16 extending generally parallel to the vertical axis of the section 1.

As such, the Hogan patent does not disclose or suggest the aforementioned hook elements having downward directed pens that are configured to cooperate with a vertical scaffold element.

It is unclear from the office action how the Hogan patent describes a plurality of V-shaped brackets having rungs spanning the far ends thereof, as presently recited in pending claim 2. Upon a review of the Hogan patent, it is submitted that this patent simply fails to disclose or suggest this feature of pending claim 2.

Because of these observations, it is kindly submitted that the Hogan patent does not disclose or suggest each and every feature recited in the pending claims. As a result, claims 1, 2, 6-9 and 11 are patentable over the Hogan patent. Withdrawal of this rejection is therefore respectfully requested.

4. Rejection of claims 1, 2 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,577,726 (Wheeler)

This rejection is respectfully traversed on the basis that the Wheeler patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Wheeler patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1 such as the recited hook elements extending generally perpendicular relative to a vertical axis of the vertical support and each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claims 2 and 11, which depend from claim 1, are at least patentable based on their dependency from claim 1 and their individually recited features.

Accordingly, withdrawal of this rejection is courteously requested.

5. Rejection of claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 1,028,453 (Glover)

This rejection is respectfully traversed on the basis that the Glover patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Glover patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1 such as the recited hook elements extending generally perpendicular relative to a vertical axis of the vertical support and each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claim 2 is at least patentable based on its dependency from claim 1 and its individually recited features.

Accordingly, withdrawal of this rejection is kindly requested.

6. Rejection of claims 1 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,139,079 (Clark)

This rejection is respectfully traversed on the basis that the Clark patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Clark patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1 such as the recited hook elements extending generally perpendicular relative to a vertical axis of the vertical support and each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claim 11 is at least patentable based on its dependency from claim 1 and its individually recited features.

Accordingly, withdrawal of this rejection is respectfully requested.

7. Rejection of claims 1 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 1,191,405 (Daubenspeck)

This rejection is respectfully traversed on the basis that the Daubenspeck patent does not disclose or suggest the scaffold ladder according to claim 1 of the pending application. More specifically, the Daubenspeck patent does not disclose or suggest each and every feature of the scaffold ladder of claim 1 such as the recited hook elements extending generally perpendicular relative to a vertical axis of the vertical support and each having a downward directed pen arranged to cooperate with erected scaffold elements. Thus, claim 1 is patentable.

Claim 11 is at least patentable based on its dependency from claim 1 and its individually recited features.

Accordingly, withdrawal of this rejection is respectfully requested.

8. Conclusion

In light of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that each and every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

BACON & THOMAS, PLLC  
625 Slaters Lane, Fourth Floor  
Alexandria, Virginia 22314-1176  
Phone: (703) 683-0500

Date: March 23, 2005

Respectfully submitted,



JUSTIN J. CASSELL  
Attorney for Applicant  
Registration No. 46,205